IN THE HIGH COURT OF PUNJAB AND HARYRNA AT CHANDIGARH

C.R. No.5543 of 2004
Date of Decision:- 29.08.2006

Satinder Kaur ....Petitioner
through
Mr.G.S.Bhatia, Advocate.

vs.

Manjit Kaur and ors. ....Respondents
through
Mr.Salil Sagar, Advocate.
Mr.I.P.Singh, Advocate with
Mr.Harcharan Singh, Advocate.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT

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SURYA KANT, J.

This revision petition has been preferred against the order dated 29.10.2004 passed by the Civil Judge (Jr.Division), Chandigarh whereby the application filed by the respondent-plaintiff under Order 15 Rule 5 CPC to strike off the defence of the defendant-Bank, has been allowed with a direction that if the defendant No.1-the Bank fails to tender the rent within the specified period, its defence would be struck off.

A brief reference to the facts may be made. It appears that the premises in dispute was taken on rent by the Punjab and Sind Bank (in short 'the respondent-Bank') for the residential purposes of the petitioner, who is employed with the respondent-Bank.

Alleging that the respondent-Bank as well as its official for whom the premises was taken on rent, namely, the petitioner, is not paying rent and that the tenancy has been terminated, a suit for possession by way of eviction as well as for recovery of the arrears of rent had been filed by respondent No.2-the landlady.

The petitioner herein, allegedly tendered the entire arrears of rent and has taken a plea that a part of the premises was already on rent with her whereas the remaining part was provided to her by the Bank after taking it on lease from the respondent-landlady. However, all these issues are required to be gone into by the learned trial Court at an appropriate stage.

It appears that there being a privity of contract between the Bank and respondent No.2-the landlady, in terms whereof the Bank having not tendered arrears of rent, the respondent landlady moved an application under Order 15 Rule 5 CPC for striking off its defence. The aforesaid application was contested by the respondent-Bank by way of a reply though no reply was filed on behalf of the petitioner.

The learned trial Court vide the impugned order has provisionally directed the Bank to tender the arrears of rent from July, 2002 onwards, failing which its defence would be struck off.

Learned counsel for the respondent-landlady states that no arrears of rent have been tendered by the Bank in compliance to the aforesaid order and as such its defence is deemed to have been struck off.

There is no denial to the fact that vide the impugned order, the respondent-Bank alone which has been directed to tender the arrears of rent, failing which its defence would be struck off. No adverse direction whatsoever has been issued against the petitioner nor any other kind of prejudice has been caused to her.

It is in this back-drop that learned counsel for the respondent-landlady has taken a preliminary objection that the petitioner is not an 'aggrieved person' and, thus, has no locus-standi to move this petition as it was for the Bank to impugn the same, if it was aggrieved thereof.

Admittedly, the Bank has not filed any such revision petition.

After hearing learned counsel for the parties and having regard to the fact that no direction prejudicial to the interest of the petitioner has been issued by the trial Court nor learned counsel for the petitioner has been able to point out as to how the impugned order has adversely affected the petitioner, I am of the view that the petitioner is not an 'aggrieved person' who can question the impugned order. Vide the impugned order dated 29.10.2004, a provisional direction has been issued to the respondent-Bank only either to tender the arrears of rent from July, 2002 onwards or its defence would be struck off.

Be that as it may, as an abundant precaution, it is clarified that no observation or direction issued/contained in the impugned order shall have any adverse effect upon the defence plea and/or the stand which the petitioner has taken or will take before the trial Court.

At this stage, Mr.I.P.Singh, learned counsel for the respondent-Bank states that since operation of the impugned order was stayed by this Court on December 03, 2004, the respondent-Bank could not comply with the same. If that is so, it will be open for the respondent-Bank to take an appropriate action in terms of the impugned order dated 29.10.2004, if so advised and permissible in law.

With these observations, this revision petition is disposed of.

August 29, 2006 **(SURYA KANT)**
poonam **JUDGE**